

**MINUTES**  
**CHARLOTTE COUNTY BOARD OF ZONING APPEALS**  
**Wednesday, August 12, 2009 - 9 a.m. – Room 119**  
**Charlotte County Administration Center**  
**18500 Murdock Circle**  
**Port Charlotte, FL 33948-1094**

*(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)*

**Members Present**

Tom Thornberry, *Chairman*  
Audrey Seay, *Vice-Chair*  
Ed Hittson, *Secretary*  
Bob Stout  
Bill Truex

**Staff Present**

Derek Rooney, *Assistant County Attorney*  
Nicole C. E. Dozier, *Zoning Official*  
Ken Quillen, *AICP, Planner III*  
Diane Clim, *Recorder*

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**I. Call to Order**

*Chairman Thornberry* called the August 12, 2009 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

**II. Pledge of Allegiance**

*Chairman Thornberry* led the members and the audience in reciting the Pledge of Allegiance.

**III. Roll Call**

Roll call was taken; a quorum was present.

**IV. Swearing In of Those Giving Testimony**

*Diane Clim* swore in all persons who wished to provide testimony.

**V. Approval of Minutes**

**ACTION:** A motion was presented by *Audrey Seay* and seconded by *Ed Hittson* to approve the minutes of the July 8, 2009 meeting of the Board of Zoning Appeals, as written, with a unanimous vote.

**VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the August 12, 2009 Board of Zoning Appeals meeting were submitted.

**VII. Introduction of Staff/Comments**

*Chairman Thornberry* introduced staff. *Nicole Dozier*, *Zoning Official*, *Attorney Derek Rooney* and *Chair Thornberry* made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

**VIII. New Business**

***The following petitions were advertised on July 23, 2009: VAR-09-09, VAR-09-11, SE-09-10, and SE-09-12 (continued)***

**Petition #VAR-09-09**

*Robert and Judith Wyne* are requesting a variance to reduce the required side yard setback from 7.5' to 4.0' to bring an existing non-conforming single-family residence into compliance with the zoning code and allow a garage addition to the existing single-family residence in a Residential Single-Family 3.5 (RSF-3.5) zoning district. The property address is 2682 Auburn Boulevard, Port Charlotte, Florida and is described as Lot 55, Block 308, Port Charlotte Subdivision, Sub-section 21, located in Section 18, Township 40 South, Range 22 East. The property contains +/- 10,000 square feet. A complete legal description and additional information are on file.

**Mr. Hittson** asked Mr. Quillen, under Section 3-9-10(a), the second sentence says "it is the intent of these regulations that non-conformities, shall not be enlarged, expanded, intensified or extended, nor shall they be used as a basis for the addition of other structures or uses other wise prohibited in the same district". Likewise, Section 3-9-10(f) says "unless otherwise specified within this code, there shall be no variances or exceptions from the requirements set forth within this section". Addressing the question of continuation of use, it appears it is not necessary to bring this property into compliance. It would appear to me that we cannot enlarge, expand, intensify or extend it, and under sub (f) a variance cannot be granted.

**Ms. Dozier** said that is correct, you cannot expand a non-conformity. That is why this gentleman is attempting to get this into conforming status. Then he has permission to add on the garage.

There was some discussion about allowing variances or special exceptions in non-conformities.

**Applicant Presentation**

**Robert Wyne, Applicant**, said he has been sworn in. This home was a model home and the garage was an office and air conditioned. He would like to keep the house the way it is and add on a garage. The existing driveway would not be extended. He cannot put the garage on the other side of the house because of the easement, water lines and septic system on that side of the yard.

**Pubic Hearing**

**Warren Ross, P.A.**, represented **James and Marilyn Davidson, neighbors who live at 2674 Auburn Blvd.** **Mr. Ross** said there is really two parts of this petition before the Board. His clients do not mind the house being in the setback, but do not want the new garage added on. They feel the garage that is already part of the home can be used as a garage. They can reconvert the room back into a garage. He called a witness Joe Trott, Surveyor, to discuss the garage in the setback. He also called Wayne Goff, President of Goff Construction. Mr. Goff prepared two estimates for Mr. Wyne's garage. One was to convert the room back into a garage. The other estimate was to build a new garage on the other side of the front yard. He said there is no hardship in this case.

### **Applicant Rebuttal**

**Mr. Wyne** said he will not convert that room back into a garage. He will not build the garage if he is not allowed.

***There being no further requests to speak for or against the petition, the Public Hearing was closed. Mrs. Seay moved to close the public hearing, seconded by Mr. Stout. The public hearing was closed with a unanimous vote.***

**Ken Quillen** presented the analysis, conclusion and recommended conditions for the petition.

### **Board Member Comments and Questions**

**Mrs. Seay** said she does not have a problem bringing the home into compliance and adding the new garage. She made a motion to approve the variance as presented. No one seconded the motion. Motion died for lack of second.

***ACTION: A motion was presented by Robert Stout and seconded by Ed Hittson that VAR-09-09 be APPROVED for the house setback based on the Growth Management Staff Report dated August 3, 2009, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception for the house structure only. The variance for the garage addition is not a hardship therefore, they denied the request to add the garage.***

***Motion was approved 4 to 1 (Mrs. Seay voted no) with the following conditions:***

1. The variance as approved by the Board of Zoning Appeals is to reduce the westerly side yard setback from 7.5' to 4.0' to bring the existing single-family residence into compliance with the zoning code and allow a 12.3' by 24' addition, consisting of a one-car garage, as shown on the **Site Plan** submitted and labeled Exhibit 2.
2. This variance extends to the existing single-family residence and the proposed garage addition and shall carry with the structures only. If the existing single-family residence is ever removed all future redevelopment must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

### **Petition #VAR-09-11**

**Ronald and Dolores Bushman** are requesting a variance to reduce the required front yard setback from 25' to 22.9' and reduce the required side yard setback from 7.5' to 6.3' to bring an existing non-conforming single-family residence into compliance with the zoning codes in a Mobile Home Conventional (MHC) zoning district. The property address is 9213 Pinehaven Way, Englewood, Florida and is described as Lot 58, Pines at Sandalhaven Subdivision, located in Section 27, Township 41 South, Range 20 East. The property contains +/- 7,530 square feet. A complete legal description and additional information are on file.

**Mr. Quillen** said he received a letter from neighbors David and Linda Brown from Ohio, which does not request approval or denial of the variance request. They

own property next to this site. Mr. Quillen gave a copy of this letter to each Board member.

*Ken Quillen* presented general information and staff findings for the petition.

**Applicant Presentation**

***Fabian Dandeneau, Friend of the applicant***, said he has been sworn in. He has been a friend of the Bushman family for 40 years. He is a licensed real estate broker in Englewood. In 2005, the Bushman family purchased Lot #58 at Sandalhaven. In the winter of 2006, a mobile home was put on the lot from a company in Georgia. Mr. Bushman was also diagnosed around that time with cancer. The Bushman's were notified that their west side and front setbacks were incorrect. They would like to get this situation cleared up, so they can move on and rent or sell this mobile home.

***Chairman Thornberry opened the meeting to Public Hearing.***

**Public Input**

No one spoke for or against this request.

***There being no further requests to speak for or against the petition, Mrs. Seay moved to close the public hearing, seconded by Mr. Truex. The public hearing was closed with a unanimous vote.***

*Ken Quillen* presented the analysis, conclusion and recommended conditions for the petition.

**Board Member Comments and Questions**

***ACTION: A motion was presented by Bob Stout and seconded by Audrey Seay that VAR-09-11 be APPROVED based on the Growth Management Staff Report dated August 3, 2009, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance, with the following conditions:***

1. The variance as approved by the Board of Zoning Appeals is to reduce the front yard setback from 25' to 22.9' and reduce the west side yard setback from 7.5' to 6.3' to bring the existing single-family residence into compliance with the zoning code as shown on the ***Boundary Survey*** submitted and labeled Exhibit 1.
2. This variance extends to the existing single-family residence only and shall carry with the existing structure. If the existing single-family residence is ever removed all future redevelopment must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

***Motion carried unanimously***

**Petition #SE-09-10**

Alison Blanchette is requesting a special exception to allow a commercial parking lot in the Manasota Commercial Tourist (MCT) zoning district. The property

address is 1975-1985 Beach Road and 1861-1863 Gulf Boulevard, Englewood, Florida and is described as Lots 14, 15, 16, 17 and 18, of Block 9, Chadwick Beach Subdivision, located in Section 12, Township 41 South, Range 19 East. The property contains +/- 34,000 square feet.

*Ken Quillen* presented the analysis, conclusion and recommended conditions for the petition.

**Applicant Presentation**

***Alison Blanchette, Applicant***, was sworn in. She said she brought in 10 sets of color copies of the site and neighboring area. She discussed the 2 handicapped parking spots on the copies as required for approval. When the current business at this address is closed, she would like to rent out the parking for beach goers. She understands she will have to landscape and take care of drainage.

***Chairman Thornberry opened the meeting to Public Hearing.***

**Public Input**

No one spoke for or against this request.

***There being no further requests to speak for or against the petition, Mrs. Seay moved to close the public hearing, seconded by Mr. Truex. The public hearing was closed with a unanimous vote.***

*Ken Quillen* presented the analysis, conclusion and recommended conditions for the petition.

**Board Member Comments and Questions**

***ACTION: A motion was presented by Audrey Seay and seconded by Edmund Hittson that Petition SE-09-10 be APPROVED based on the Growth Management Staff Report dated August 3, 2009, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception with the following 6 conditions, and a unanimous vote:***

1. The special exception, as approved by the Board of Zoning Appeals, is for a commercial parking lot(s) to be located only on the lots included in this application, and only while the existing buildings located on the property remain vacant.
2. If one or both buildings located on the property are ever occupied with a new use then the off-street parking requirements for that use must be provided and the commercial parking lot(s) must be discontinued.
3. All parking areas must be improved with paving, drainage and landscaping according to code prior to the leasing of any parking spaces.
4. Detailed grading, paving and landscape plans must be submitted and approved through the Site Plan Review process and all paving, landscaping and other improvements require by code must be installed and completed prior to use of subject property for the proposed commercial parking lot(s).

5. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the proposed commercial parking lots.
6. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions may be approved by the Zoning Official.

**Petition SE-09-12 Continued at the request of the Applicant.**

**IX. Public Comments - None**

**X. Staff Comments**

*Ken Quillen* said the next meeting is September 9.

**XI. Member Comments – None**

**XII. Next Meeting**

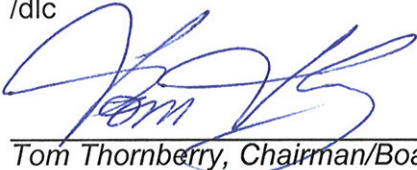
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, September 9, 2009, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:48 a.m.

Respectfully submitted,

Diane Clim, Recorder

/dlc



Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date: 9-9-09